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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/542,139      | 04/04/2000  | Satoru Yukie         | 50 P 3859.02        | 6059             |

7590 04/29/2005

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EXAMINER

POINVIL, FRANTZY

|          |              |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
|----------|--------------|

3628

DATE MAILED: 04/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/542,139

Applicant(s)

YUKIE ET AL.

Examiner

Frantzy Poinvil

Art Unit

3628

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 17 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-5,8,10,12-17,22,24,26 and 29-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5,8,10,12-17, 22,24,26 and 29-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>1/12/05</u> .   | 6) <input type="checkbox"/> Other: _____                                    |

RP

## DETAILED ACTION

1. The Examiner's response to applicant's arguments is found below.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 8, 10, 12-17, 22, 24, 26, 29-35 are rejected under 35 U.S.C. 102(b) as being anticipated by Hylton et al. (US Patent No. 5,708,961).

Hylton et al disclose all the claimed limitation, particularly, Hylton et al disclose a wireless on premises video distribution using digital multiplexing. Hylton et al disclose:

"The illustrated network also offers pay per view services through the ATM broadcast program channels 318. A user selects a pay per view event by operating the terminal 100a. The terminal 100a transmits a purchase message upstream through the Loop Transport Interface 300 to the level 1 gateway 411. If the authorization data in the subscriber's profile in the level 1 gateway 411 indicates that the terminal identification is valid and the subscriber is authorized to purchase such events, the level 1 gateway instructs the Access Subnetwork Controller 417 to authorize reception. If decryption is required, the Access Subnetwork Controller instructs the ACC 4000 331 to provide a decryption key to the NIM. In response to an appropriate message

from the level 1 gateway 411, the terminal 100a decodes the pay per view event in essentially the same manner as for other premium services carried on the ATM broadcast channels 318, as outlined above. Similar procedures are used to authorize reception of pay per view events by a set-top terminal 100 serviced through shared receiving system 10.sub.1. “

“The operations of each HDT 530 are controlled by data tables stored within the HDT. The video information providers (VIP's) provision various services for their subscribers by establishing appropriate mapping and profile data in the tables in the HDT's 530. The VIPs, however, do not have direct access to the data tables within the HDTs. Instead, the VIPs access the VAM 542 through a personal computer interface 544 and the X.25 data communication network 546. The VIPs 510 provide provisioning data through the operations and support system (OSS) 544 to the VAM 542, and the VAM 542 periodically downloads that data to the appropriate HDTs 530.”

The content is in digitized format. Accounting data is generated, and information data are retrieved based on a profile of a subscriber for transmission to a subscriber's terminal.

As per claims 1 and 12, 24, 26 Hylton et al disclose a computerized system for transmitting video programs to subscriber terminals located at a remote terminal through a computer network path. See figure 1 of Hylton et al. The video programs are in a digitized format and are available for selection on a computer network. The system uses a wireless communication path. (See figure 1, column 26, lines 9-38, column 43, line 65 to column 44, line 9).; comprises at least one connect sever communicating with the user terminal (figure 1, element 5) the connect server receiving

requests for content (such as video programs or pay-per-view events) generated from the user terminal (column 26, lines 38-44 and line 63 to column 27, line 14); the connect server accessing a database of publicly vended content to fulfill the requests (figure 1 and column 26); Customers must pay for rendered services or video programs and an accounting or billing data is present for generating billing data. See column 40, lines 38-48 and column 37, lines 38-48.

Applicant's representative argues that Hylton et al fail to teach or suggest the accounting data is generated using one or both of the type of user terminal and number of packets delivered to the user terminal.

In response, Hylton et al disclose providing services to customers or to customers' terminals based on their profile and/or based on selected services or programming. These functions are steps or means for generating billing or accounting data based on the type of user terminal and number of packets to the user terminal. See column 26, lines 9-39 of Hylton et al. The services provided are video programs that may be generated data packets and IP packets. See column 25, lines 39-48 of Hylton et al.

As per claims 2, 13, Hylton et al teach at least a portion of the network path is a directional wireless path. See column 38, lines 38-46 of Hylton et al.

As per claim 3 and 15, the system of Hylton et al uses wireless and employs no telephony switches therein.

As per claim 14, see column 6, line 44 to column 7, line 34 of Hylton et al.

As per claims 4-5, 16-17, Hylton et al teach the content is provided to the user terminal over the network path in packets and wherein the packets are in IP protocol format. See column 25, lines 38-48 and column 41, lines 29-48.

As per claims 8 and 29 the subscription is established at least in part by a user profile (see column 26, lines 9-38).

As per claims 10, 22, the billing data is based at least in part on at least one time period since video programming are pay-per-view and also since cable services are billed monthly by a service provider.

As per claims 30-32, the network path has a data transmission rate of at least one Mbps. See column 13, lines 8-26, column 14, lines 19-29 and column 21, lines 49-65 of Hylton et al.

As per claims 33-35, Hylton et al disclose steps or means for determining a user terminal device type, the device type dictating the content to be provided to the user terminal. See column 41, lines 12-48 of Hylton et al.

3. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

#### ***Conclusion***

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frantzy Poinvil whose telephone number is (703) 305-9779. The examiner can normally be reached on Monday-Thursday.

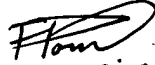
The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3628

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

FP

April 6, 2005

  
FRANTZY POINVIL  
PRIMARY EXAMINER  
AU 3628